

ORDER NO. 4739

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Tony Hammond, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Periodic Reporting
(Proposal Five)

Docket No. RM2018-8

ORDER GRANTING MOTION FOR ACCESS TO LIBRARY
REFERENCE USPS-RM2018-8/NP3 AND HOLDING MOTION FOR
ACCESS TO LIBRARY REFERENCE USPS-RM2018-8/NP1 IN ABEYANCE
PENDING FURTHER ACTION

(Issued August 1, 2018)

On July 20, 2018, United Parcel Service, Inc. (UPS) filed a motion requesting access to non-public materials.¹ In particular, UPS requests access to non-public Library Reference USPS-RM2018-8/NP1, which was filed in support of the Postal Service's Proposal Five.² UPS explains that it has an interest in accurate Postal Service costing overall and a "particular interest in [the costing methodology] applied to

¹ United Parcel Service, Inc.'s Motion Requesting Access to Non-Public Materials Under Protective Conditions, July 20, 2018 (First Motion for Access).

² See Notice of Filing of USPS-RM2018-8/NP1 and Application for Nonpublic Treatment, June 26, 2018. See also Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Five), June 26, 2018 (Petition). Proposal Five is attached to the Petition.

international inbound letter post.” First Motion for Access at 2. UPS states that Proposal Five does not contain public library references or data upon which commenters can rely in making comments. *Id.* UPS clarifies that it “does not seek and has no interest in obtaining customer-specific or sensitive third-party information.” *Id.* at 1.

The Postal Service opposes UPS’s First Motion for Access.³ The Postal Service responds that the material is confidential, commercially sensitive, and could cause harm to the Postal Service’s business relationships. Response at 1. Additionally, the Postal Service states that it consulted with third parties listed in Appendix 1 of the application for nonpublic treatment filed with the FY 2017 Annual Compliance Report in Docket No. ACR2017.⁴ The Postal Service represents that two third parties are concerned by UPS potentially gaining access to Library Reference USPS-RM2018-8/NP1.⁵

Concurrent with its Response, the Postal Service also filed non-public Library Reference USPS-RM2018-8/NP3.⁶ The Postal Service states that this library reference “excludes identified third party information, and shows the pre- and post-implementation scenarios resulting from [Proposal Five].” Response at 2-3. The Postal Service asserts that the data included in non-public Library Reference USPS-RM2018-8/NP3 “would enable UPS to make informed comments regarding the Postal Service’s

³ United States Postal Service Response to United Parcel Service Inc.’s Motion Requesting Access to Non-Public Materials Under Protective Conditions, July 27, 2018 (Response).

⁴ Response at 3; see Docket No. ACR2017, United States Postal Service FY 2017 Annual Compliance Report, December 29, 2017, Attachment Two, Appendices 1 and 2.

⁵ Response at 3. The Postal Service identifies one of those third parties as Canada Post Corporation (Canada Post), the designated postal operator of Canada, and attaches a letter from Canada Post to its Response. See *id.*; see also *id.* Attachment 1. In the letter, Canada Post opposes UPS’s First Motion for Access because of “the magnitude of the parcel flows between [the Postal Service and Canada Post];...the highly competitive nature of the United States/Canada cross-border parcels business;” and the serious and significant impact that improper disclosure could have on Canada Post’s revenues and legitimate commercial interests. *Id.* Attachment 1. Canada Post indicates that the protective measures outlined in UPS’s First Motion for Access would not adequately protect its interests. See *id.*

⁶ Response at 2; see Notice of Filing of USPS-RM2018-8/NP3 and Application for Nonpublic Treatment, July 27, 2018.

petition in this docket.” *Id.* at 3. The Postal Service also states that it “has no objection to the Commission granting access by qualified UPS representatives under the standard protective conditions to [this] material.” *Id.* at 1-2.

As an alternative to UPS access to Library Reference USPS-RM2018-8/NP1, the Postal Service suggests that UPS request access and review the data filed in Library Reference USPS-RM2018-8/NP3. *Id.* at 6. The Postal Service further suggests that UPS inform the Commission whether it is willing to withdraw its First Motion for Access after its review of Library Reference USPS-RM2018-8/NP3 and requests that the Commission hold UPS’s First Motion for Access in abeyance pending further action by UPS. *Id.*

On July 31, 2018, UPS filed a motion requesting access to Library Reference USPS-RM2018-8/NP3.⁷ UPS’s Second Motion for Access states that the Postal Service has no objection to UPS’s representatives gaining access to Library Reference USPS-RM2018-8/NP3. Second Motion for Access at 1. In support of its Second Motion for Access, UPS outlines the protective measures that it will take to limit access to Library Reference USPS-RM2018-8/NP3. See *id.* Exhibit B. Certifications signed by fourteen individuals are also attached to the Second Motion for Access. Second Motion for Access, Exhibits A and B.

The Commission grants UPS’s Second Motion for Access, and the fourteen individuals identified in Exhibit A of the motion are granted access to Library Reference USPS-RM2018-8/NP3. UPS representatives shall review the data filed in Library Reference USPS-RM2018-8/NP3 and inform the Commission whether UPS withdraws its First Motion for Access. If UPS does not plan to withdraw its First Motion for Access, UPS may file a reply to the Postal Service’s Response explaining why Library Reference USPS-RM2018-8/NP3 does not provide sufficient data for UPS to evaluate Proposal Five or to meaningfully participate in this docket. The Commission holds UPS’s First Motion for Access in abeyance in the interim.

⁷ United Parcel Service, Inc.’s Second Motion Requesting Access to Non-Public Materials Under Protective Conditions, July 31, 2018 (Second Motion for Access).

It is ordered:

1. United Parcel Service, Inc.'s Second Motion Requesting Access to Non-Public Materials Under Protective Conditions, filed July 31, 2018, is granted.
2. The fourteen individuals identified in United Parcel Service, Inc.'s Second Motion Requesting Access to Non-Public Materials Under Protective Conditions shall be granted access to non-public Library Reference USPS-RM2018-8/NP3.
3. United Parcel Service, Inc. shall notify the Commission whether it withdraws United Parcel Service, Inc.'s Motion Requesting Access to Non-Public Materials Under Protective Conditions, filed July 20, 2018.
4. If United Parcel Service, Inc. does not plan to withdraw its Motion Requesting Access to Non-Public Materials Under Protective Conditions, it may file a reply to the Postal Service's Response filed on July 27, 2018.
5. United Parcel Service, Inc.'s Motion Requesting Access to Non-Public Materials Under Protective Conditions, filed July 20, 2018, is held in abeyance.

By the Commission.

Stacy L. Ruble
Secretary